

Serial No.: 10/643,058

In Reply to Office Action dated: October 4, 2005

Page 6 of 8

### Remarks/Arguments

In the current application, claims 1-20 are pending. Claims 1, 5, 8, 12, 15, 17 and 18 have been amended. No new matter has been added to the specification. For at least the reasons stated *infra*, this application is in condition for allowance, and a notice of allowance should be issued.

### Rejection pursuant to 35 U.S.C. § 103

Claims 1-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Greenberg, U.S. Patent No. 6,692,413, in view of Debski, U.S. Patent No. 4,344,620, and Zakrzewski, U.S. Patent No. 4,602,387, by themselves or in combination. Applicant respectfully disagrees.

The Office Action states that Applicant's prior arguments were not considered because the claimed invention did not affirmatively include "massage tools." Independent claims 1, 5 and 15 have been amended to specifically include a limitation for "therapeutic massage tools." Based on the now amended claims, Applicant asserts the following arguments and respectfully requests allowance of all pending claims.

#### ***A. Prior Art Must Teach or Suggest All Claim Limitations***

In order to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *See* MPEP § 2143.03. Greenberg in combination with Debski and Zakrewski, alone or together, fail to teach or suggest all of the limitations claimed in Applicant's invention as now claimed. Applicant claims "a device for massaging the anatomy of a body part . . . comprising: a garment configured for wear by a user; a plurality of various therapeutic massage tools; a plurality of horizontal compartments or channels

Serial No.: 10/643,058

In Reply to Office Action dated: October 4, 2005

Page 7 of 8

located from the top to the bottom of the back of said garment in which said various therapeutic massage tools are placed; and interior pockets located in the front interior of said garment."

Because the cited prior art fails to teach or suggest all of the limitations of Applicant's invention as claimed, Applicant requests that Examiner withdraw the 35 U.S.C. § 103(a) rejection and issue a notice of allowance.

***B. Prior Art Must Teach or Suggest Combination or Modification***

The Office Action recites the combination of several references to support the claim rejections under 35 U.S.C. § 103(a). The mere fact that references can be combined or modified, however, does not establish obviousness of the combination absent a teaching or suggestion supporting the combination. *See* MPEP § 2143.01. The test is whether the combined teachings of the prior taken as a whole teach or suggest the combination or modification to one of ordinary skill in the art. *Id.* Applicant asserts that it is improper to substitute the horizontal compartments extending from the bottom of the back of the garment disclosed by Debski for the compartments in the back of the garment disclosed by Greenberg because there is no motivation to combine these references. Further, these references provide no suggestion of "massage" applications, thus further teaching away from Applicant's invention.

Greenberg discloses an exercise jacket having weights positioned in pockets specifically placed on a 45 degree angle. Moreover, Greenberg teaches away from the use of horizontal compartment, channels or chambers because it states that the "novelty is in the 45 degree of the angle of the pockets, which follows and pulls in the direction of the muscle contraction, and the specific placement of the pockets." *See Specification*, col. 3, lines 54-56; and MPEP § 2145 X(D)(2). Further, modifying Greenberg with the horizontal compartments extending from the bottom of the back of the garment disclosed by Debski would eliminate the novel aspect of

Serial No.: 10/643,058

In Reply to Office Action dated: October 4, 2005

Page 8 of 8

Greenberg and render Greenberg "unsatisfactory for its intended purpose." See MPEP § 2143.01.

Based on the foregoing, Applicant respectfully asserts that the claimed invention is nonobvious, and the rejection pursuant to 35 U.S.C. § 103(a) is inappropriate. Applicant respectfully requests the rejection be withdrawn and a notice of allowance be issued.

#### Conclusion

Applicant submits that, for at least the reasons stated above, all pending claims are allowable over the art of record and respectfully requests that a Notice of Allowance be issued in this case. If the Examiner believes that a teleconference would be of value in expediting the allowance of the pending claims, the undersigned can be reached at the telephone number listed below. If any fees are due in connection with the filing of this paper, the Commissioner is hereby authorized to charge or credit any such fees or overpayment to Deposit Account No. 50-1901 (Reference #22330-301).

Respectfully submitted,

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